

**Stephen Ross, Esquire**

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March 7, 2014

**PUBLIC VERSION**

Via Electronic Mail

Gregory.Cooke@fcc.gov

Gregory Cooke  
Federal Communications Commission  
445 12th St. SW  
Washington, D.C. 20536

Re: Vyve Broadband A, LLC (Present owner of cable systems formerly owned and operated by Allegiance Communications, LLC)  
File No. 201204-296-031  
Information Request dated February 4, 2014 ("Request")

Dear Mr. Cooke:

On behalf of Vyve Broadband A, LLC ("Vyve"), the current owner of certain of the systems formerly owned and operated by Allegiance Communications, LLC ("Allegiance"), this letter is in response to the above-referenced Request seeking additional information regarding the petition filed by Allegiance on June 27, 2012 seeking a waiver of Section 11.56 of the Federal Communications Commission's (the "Commission") rules (the "Petition").<sup>1</sup> Vyve acquired certain systems from Allegiance on April 4, 2013 and, as discussed in detail below, has expended considerable capital to update their broadband capacity and is working toward compliance with the CAP-EAS Requirements of Section 11.56 of the Commission's Rules. As detailed below, Vyve requires additional time to bring certain of the systems into compliance by either connection to a master headend via a fiber ring which is being constructed or installation of standalone equipment. This Response is being sent via email pursuant to the Request.

We request confidential treatment for certain information in this Response and Exhibit A hereto.

Pursuant to 47 C.F.R §0.459, Vyve requests that the information contained in Exhibit A and certain information provided in this Response be treated in a confidential manner and not be made available for public inspection. As the information in the Response and

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<sup>1</sup> Request for Waiver of Section 11.56, EB Docket 04-296 (filed June 27, 2012) ("Petition").

Exhibit A is being sent via email, separate email documents are hereby provided and marked Confidential Material in accordance with 47 C.F.R. §0.459(a).

Vyve seeks confidential treatment of these materials as they consist of trade secret financial information and system information, which are confidential and not routinely available for public inspection consistent with 47 C.F.R. §0.457(d). This data is customarily guarded from competitors and Vyve would suffer substantial competitive harm if it were disclosed; financial data in the hands of competitors provides those competitors with opportunity for significant competitive advantage. Vyve treats this information as confidential internally and takes measures to maintain its confidentiality. The information is not available to the general public and has not previously been disclosed to third parties with the exception of those who need to know. Vyve seeks confidential treatment for these materials indefinitely. For these reasons, Vyve respectfully submits that it has made an adequate showing pursuant to 47 C.F.R. §0.459 (a) and (b) and, therefore, requests the Commission to grant its request to treat these materials as confidential trade secret financial data and withhold them from public inspection.

With respect to the Request, Vyve submits that because Vyve acquired the systems from Allegiance on April 4, 2013 and did not operate the systems on June 30, 2012, Question 1 is not relevant given the current circumstances.

Additionally, Vyve submits that Questions 3 and 5 are not applicable in view of the fact that Vyve is not claiming financial hardship as a basis for the requested limited waiver to fully comply with the CAP-EAS Requirements.

Our responses to the remaining Questions are set forth below using the same numbering and in the same order as presented in the Request:

2. State whether Allegiance and the Allegiance Systems are currently capable of receiving and processing CAP-formatted EAS Alerts. If not, describe the steps that Allegiance has taken to bring the Allegiance Systems into compliance since filing its waiver petition.

a. For each currently noncompliant System, specify the steps that Allegiance intends to take to ensure compliance, and the date by which compliance is expected.

RESPONSE: The attached Exhibit A sets forth (i) each system that was referenced in the letter Allegiance provided to the Bureau on August 31, 2012, (ii) the status of each system as of August 30, 2012, (ii) the current status of each



system, and (iii) with respect to the non-compliant systems, the steps that Vyve intends to take to ensure compliance with the CAP-EAS Requirements.

In summary, Vyve and/or Allegiance have shut-down 54 of the 80 listed systems and Vyve expects that six additional systems will be shut down no later than December 31, 2014. In addition, three systems have been brought into compliance in connection with Vyve's construction of a [REDACTED]-mile fiber ring. The ring is a counter-rotating, redundant network anchored between collocation facilities in Oklahoma City, Tulsa and Dallas. The central video distribution point will be located in Shawnee, Oklahoma with each community along the ring deriving their service from that master location. Vyve has invested over \$[REDACTED] in the fiber connectivity and approximately equal amounts for the upgrades to the distribution and customer premise facilities. The ring will not only enable Vyve to bring many of the systems into compliance, but will provide the capability to roll out state-of-the-art broadband video, voice and data service.

With respect to ten of the systems for which Vyve requires additional time to fully comply with the EAS-CAP Requirements, Exhibit A sets forth the expected timeline for achieving compliance. These systems will be brought into compliance as soon as they can be connected to the master headend located in Shawnee, which connection requires completion of the fiber ring described above.

The remaining seven systems marked in Exhibit A as "Need to resolve" will require their own standalone equipment if they cannot be connected to the master headend.

Completion of the fiber ring construction project has taken more time than anticipated thereby delaying the connection of a number of the systems and full compliance with the CAP-EAS Requirements. In any event, all the systems listed on Exhibit A will be either shut down or in compliance with the CAP-EAS Requirements no later than December 31, 2014.

4. Submit a cost estimate for obtaining the necessary equipment to comply with the required regulations.

RESPONSE: Vyve has committed significant capital to construct the Shawnee master headend and the fiber ring required to connect its systems. In the event the systems noted as "Need to resolve" in Exhibit A cannot be connected to the master headend, Vyve intends to purchase the necessary standalone equipment for an aggregate amount of approximately \$[REDACTED]. In addition, Vyve will incur the recurring costs for the internet connectivity required at each system to maintain compliance.

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6. Provide any other relevant information in support of Allegiance's petition, including supporting documents and other supplementary materials.

RESPONSE: The Petition is for a temporary waiver through December 31, 2014 of Vyve's compliance with the CAP-EAS Requirements in respect of 23 systems serving approximately [REDACTED] percent ([REDACTED]%) of Vyve's subscriber base to allow for either (i) the shut-down of the systems [REDACTED], (ii) the connection of the systems to the fiber ring [REDACTED] or (iii) the connection of the systems to the fiber ring or the installation of standalone equipment [REDACTED], in each case as outlined in Exhibit A and in this Response.

Vyve is prepared to work cooperatively with the Bureau to use its best efforts to comply with Section 11.56 of the Commission's rules as quickly as possible.

Thank you for your consideration.

Sincerely,



Stephen Ross  
Attorney for Vyve Broadband A, LLC

cc: Thomas J. Beers  
Marie Censoplano, SVP and General Counsel, Vyve Broadband A, LLC  
Jane E. Bremer, Esq.